

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This settlement and mutual release agreement ("Agreement") is entered on the date set forth below, by and between **Robert Weger**, individually and as Mayor of the City of Willoughby Hills, ("Mayor"), and **Nancy Fellows, John Plecnik, David Fiebig, Laura Pizmoht, Laura Lenz, Janet Majka**, ("Council"), individually and in their capacity as councilmembers for the City of Willoughby Hills (collectively referred to as "the parties").

WHEREAS, a dispute has arisen among the parties relating to a series of Ordinances and Mayoral conduct that occurred through 2016, 2017, and 2018; and

WHEREAS, Robert Weger, individually and as Mayor, commenced litigation against Willoughby Hills City Council and certain members of the City Council, and defendant Council members filed a counterclaim in *Robert Weger, et al v. Willoughby Hills City Council*, Case No. 17CV0001758, Lake County Common Pleas Court, (Weger I Lawsuit); and

WHEREAS, Thomas Lobe, in his individual capacity, commenced litigation against the Council of the City of Willoughby Hills and certain members of council in their individual capacity in *Thomas Lobe, et al v. the Council of the City of Willoughby Hills*, et al, Case No. 18CV000087, Lake County Common Pleas Court, (Lobe lawsuit); and

WHEREAS, Michael Germano, in his individual capacity, commenced litigation against the City of Willoughby Hills and certain members of council in their official capacity in *Michael P. Germano, v. City of Willoughby Hills*, Case No. 18CV000288 (Germano Lawsuit); and

WHEREAS, the Lobe Lawsuit and Germano Lawsuit were consolidated with the Weger I lawsuit, Case No. 17CV001758, Lake County Common Pleas Court and proceeded to trial resulting in a verdict and Judgment Entry dated April 2, 2018; and

WHEREAS, the April 2, 2018 decision was appealed and remains pending in the Eleventh District Court of Appeals in *Robert Weger, et al v. Willoughby Hills City Council et al*. Case No. 2018-L-051, *Thomas Lobe, et al v. Willoughby Hills*, Case No. 2018-L-052, and *Michael Germano, et al v. Willoughby Hills City Council, et al*. Case No. 2018-L-053; and

WHEREAS, Robert Weger, in his individual and official capacity, commenced litigation and filed a motion for preliminary and permanent injunction against Willoughby Hills City Council and certain members of council named in their official capacity in *Robert Weger, et al v. Willoughby Hills City, et al*, Case No. 18CV000964, Lake County Common Pleas Court (Weger II Lawsuit), which related the passage of Ordinance No. 2018-27; and

WHEREAS, Council of the City of Willoughby Hills and certain members of council in their individual and official capacities, commenced litigation against Robert Weger, in his official capacity, and filed a motion for a temporary restraining order and preliminary injunction in *Council of the City of Willoughby Hills et al. v. Robert Weger*, Case No. 18CV001677, Lake County Common Pleas (Weger III Lawsuit), relating to an October 3, 2018 letter from Mayor Weger in an effort to remove certain council members.

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

1. Council will work with the Mayor for the confirmation of a new fire chief, Rob Gandy, Patty Heller or Tom Talcott. Council may vote to not confirm two of the three proposed choices without violating this Agreement. The Mayor shall determine who to nominate and in what order. Council will each vote to confirm either James O'Leary or Joe Diemert as the law director under a one year contract. Council may vote to not confirm one of the proposed candidates for law director without being in violation of this Agreement.

2. Any member of the AFSCME Union that was subject to the April 2018 layoff shall be permitted to return to work on January 2, 2019 and receive back-pay for the period May 1, 2018 to the date of return, less any amounts received as unemployment benefits or any taxable wages, from mitigation employment, received during such period provided that such employee requests that the Union withdraw the unfair labor practice charge in front of SERB relating to their layoff. Any affected AFSCME worker who was employed by the City at the time of the April 2018 lay-off who chooses not to return to the affected position, shall receive back pay less unemployment benefits and other wages for this period provided they request the Union to withdraw the unfair labor practice charge relating to the layoff. Ordinance 2018-19 shall be rescinded by Council. All employees receiving back-pay must certify the amount of mitigation wages they received at the start of their re-employment and agree to provide their 2018 tax returns, when completed, if asked for by the City. SERB or the Union's actions, before or after this Agreement is executed, with respect to the unfair labor practice charge, does not affect the employees' right to return under the terms of this paragraph. The undersigned Council will vote for a 2019 Budget that includes the amount due to these employees for back pay as a specific line item and will not impact budgeting for other departments. The undersigned Council will not vote for a budget in 2019, in any way, designed to force the Mayor to lay these employees off, again.

3. All pending litigation, including any matter on appeal, shall be dismissed to the extent possible, with prejudice. The trial judge will retain jurisdiction in the present case in order to interpret, enforce and adjudicate enforcement/recession issues regarding the settlement agreement.

4. The parties will enter into a joint statement to be published which shall be the only public statement by the Parties to this Agreement. If questioned, all Parties shall indicate the resolution was reached to everyone's satisfaction. The joint public statement shall be as follows:

"Council and the Mayor have been engaged in disputes on various issues for the last 18 months. They believe they have resolved these disputes and want to move forward, working together, for the good of the community. To the extent Council and the Mayor have said or written negative things about each other during these disputes, everyone wishes to retract those statements so the Mayor and Council can move forward to work together for the benefit of the community.

5. The Parties shall use best efforts to follow the precepts of the Charter. And the parties agree that the Mayor shall not attempt to remove council members nor will council attempt to remove the Mayor during the remainder of the Mayor's term. Each party respects the separation of power under the Willoughby Hills Charter and will abide by that, which is a material term of this settlement agreement.

6. Council will approve an increase in the Mayor's spending budget to Five Thousand Dollars (\$5,000.00).

7. Section 167.03 of Ordinance 2018-8 will be voted to be rescinded by the undersigned Council members. Neither the Mayor nor Council will not endorse, advertise or talk up any candidate for office in a publication or email through City publications and email.

8. All reasonable costs and attorney fees incurred by the Parties and other litigants (Lobe and Germano-- if they dismiss their pending claims, with prejudice,) shall be paid by the City including the reasonable attorney fees owed to Randy Klammer stemming from the initial two cases and this litigation and the pending appeal, and the fees incurred by council members in this litigation and the other pending cases. If Germano dismisses his pending claims, with prejudice, he shall remain as prosecutor unless a valid reason to remove him arises, and he is properly removed under the Charter.

9. The Mayor agrees to release and forever discharge any and all claims, damages, injury, or causes of action he may have or could have had against council members who sign this agreement. Council members to this Agreement agree to release and forever discharge any and all claims, damages, injury, or causes of action against the Mayor that any individual council member may have or could have had including any claim for tort, defamation, false light or injury of any kind.

10. It is expressly understood by all parties to this Agreement that the terms, provisions, payments and transfers set forth herein are not to be construed as an admission of any liability by any of the parties to this Agreement, but rather, all liability is expressly denied in all respects.

11. This document contains the complete and entire understanding of the parties relative to the subject matter hereof and supersedes any previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. This Agreement will be construed pursuant to the laws of the State of Ohio. All disputes arising under this Agreement will be resolved in the Lake County Common Pleas Court.

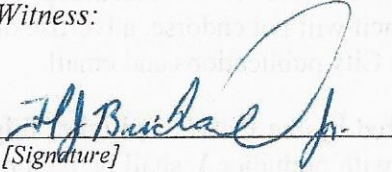
12. The laws of the State of Ohio shall govern the validity, performance and enforcement of this Agreement, with reference to Ohio Choice of Law rules.

13. Each of the Parties declares that each knows and understands the contents of this Agreement and has had an opportunity to review its terms with an attorney and that the Agreement has been executed voluntarily. Further, the Parties herein each declare that this Agreement represents the complete and full Release of any and all claims, demands, warranties except as specified herein.

In Witness Whereof, the undersigned have executed this Settlement Agreement and General Release on the dates indicated below their respective signature lines.

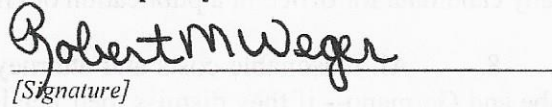
[SIGNATURE PAGE FOLLOWS]

Witness:


[Signature]

FRANK J. BAICHACK, JR.
[Print Name]

**ROBERT WEGER, in his individual
official capacity**


[Signature]

12-31-18
Date:

Witness:

[Signature]

[Print Name]

**NANCY FELLOWS, in her individual
official capacity**

[Signature]

Date:

Witness:

[Signature]

[Print Name]

**JOHN PLECNIK, in his individual
official capacity**

[Signature]

Date:

Witness:

**DAVID FIEBIG, in his individual
official capacity**

[Signature]

[Signature]

[Print Name]

Date:

Witness:

**LAURA PIZMOHT, in her individual
official capacity**

[Signature]

[Signature]

[Print Name]

Date:

Witness:

**JANET MAJKA, in her individual
official capacity**

[Signature]

[Signature]

[Print Name]

Date:

Witness:

[Print Name]

**LAURA LENZ, , in her individual
official capacity**

Witness:

[Signature]

[Signature]

[Print Name]